



The American Civil Rights Union

*"Protecting the civil rights
of all Americans."*

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Founder

Hon. Robert B. Carleson

VIA FIRST CLASS MAIL

June 10, 2014

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Dora McKenzie, Chair

Clarke County Election Commission

c/o Clarke County Circuit Clerk

P.O. Box 216

Quitman, MS 39355

Fax: (601) 776-1001

Dear Chairman McKenzie:

I am writing on behalf of the American Civil Rights Union (ACRU) to notify you that your county is in apparent violation of Section 8 of the National Voter Registration Act (NVRA) based on our research.

The ACRU is a nonpartisan, nonprofit organization dedicated to protecting the civil rights of all Americans by publicly advancing a Constitutional understanding of our essential rights and freedoms. As part of that mission, we work to improve the integrity of American elections by promoting and protecting the rights of legally qualified voters regardless of political party.

Voter rolls across America have been discovered that contain substantial numbers of ineligible voters, resulting in the possible disenfranchisement of legally eligible voters via ballot dilution that threatens to subvert the nation's electoral process.

Based on our comparison of publicly available information published by the U.S. Census Bureau and the federal Election Assistance Commission, your county is failing to comply with Section 8 of the NVRA. Federal law requires election officials to conduct a reasonable effort to maintain voter registration lists free of dead voters, ineligible voters and voters who have moved away; 42 U.S.C. §§ 1973gg-(6)(a)(4) and 15483(a)(2)(A)(ii)(I).

In short, your county has significantly more voters on the registration rolls than it has eligible live voters.

The Attorney General of the United States may enforce the list maintenance requirements of Section 8 of NVRA to ensure that ineligible voters are not participating in the political process, but he has failed to do so. The ACRU has therefore taken on the task of notifying you of your county's violation.

This letter serves as the statutory notice to your county, required by 42 U.S.C. §1973gg-9(b)(2) prior to the commencement of any lawsuit under 42 U.S.C.

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§1973gg-9(b)(1), in order to enforce provisions of Section 8 of the National Voter Registration Act 42 U.S.C. §1973gg-6.

It is our hope that your county will work quickly towards full compliance with 42 U.S.C. §1973gg-6. If not, according to the federal statute, a lawsuit under the NVRA may be filed after the receipt of this notice by a private party since the NVRA contains a private right of action to enforce the provisions of the statute. For any lawsuits initiated by a private party, an award of attorney's fees, expenses and costs incurred are available under 42 U.S.C. §1973gg-9(c).

If you believe the registration information reported by the Election Assistance Commission for 2012 is inaccurate, please state the basis for that belief. In particular, if the publicly available information cited above is no longer accurate, it would be helpful if you could provide:

- (a) updated registration data since the publication of the 2013 EAC report;
- (b) purge date(s);
- (c) the number of ineligible voters purged by category (e.g., dead, duplicate, ineligible) and by date;
- (d) the source agency that provided the identifying information of the purged deceased;
- (e) the date of the deceased data, meaning how fresh the deceased data was that was provided by third-party agencies;
- (f) the number of notices sent to inactive voters since the publication of the EAC report;
- (g) the names of the staff in your office responsible for conducting list maintenance obligations;
- (h) the number of ineligible voters removed for criminal conviction, if applicable, and the date of the most recent dataset containing criminal convictions against which you compared voter lists; and,
- (i) the total number of voters registered in your county as of the date of your response.

Section 8 also requires your county office to make available for public inspection "all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters." 42 U.S.C. § 1973gg-6(i)(1); See also, *Project Vote v. Long*, Slip Op. 11-1809, (4th Cir. June 12, 2012). (The NVRA requires local election officials to provide voter registration data to the public).

We are hopeful that full compliance with our request will make a public inspection of your county's registration data unnecessary; and we are particularly hopeful that the data contained in your response might demonstrate that your number of registered voters no longer exceeds 100% of those eligible to vote. If not, we would like to inspect your registration records at a time convenient to the responsible county officials prior to November 1, 2014.

Since steps necessary to ensure that only eligible voters are on the rolls will not involve significant effort or cost, we believe it is reasonable to expect your county's voter roll violations to be resolved before voting begins in the November 2014 elections.

We would note in this regard that consent decrees were entered in the U.S. District Court for the Southern District of Mississippi last year against Walthall and Jefferson Davis counties regarding the ACRU's identical concerns about those counties' duty to enforce their "obligations concerning voter registration list maintenance in elections for Federal offices." We include a copy of the Walthall County consent decree.

Thank you for your time and attention to this matter. Please feel free to call to arrange a convenient time to discuss and arrange an inspection by contacting Christian Adams, the attorney representing the ACRU in these matters, at (703) 963-8611 or mail to J. Christian Adams, 300 N. Washington Street, Suite 405, Alexandria, Va. 22314.

Sincerely,

Susan A. Carleson
Chairman & CEO
American Civil Rights Union

CC: The Hon. Delbert Hosemann
Mississippi Secretary of State
125 S. Congress Street
Jackson, MS 39201